

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No. 15796 of 2006

Date of decision: October 19, 2006

K.S.Enterprises, Faridabad

.. Petitioner

v.

Union of India and others

.. Respondents

Present: Mr. Avneesh Jhingan, Advocate for the petitioner.

CORAM:

Hon'ble Mr.Justice K.S.Garewal

Hon'ble Mr. Justice Rajesh Bindal

1. Whether Reporters of local papers maybe allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Rajesh Bindal, J.

The petitioner has approached this Court by filing the present petition seeking quashing of order dated 27.7.2006, passed by the Customs, Excise and Service Tax Appellate Tribunal (for short, 'the Tribunal'), whereby on a consideration of the application for entertainment of appeal, the Tribunal directed pre-deposit of Rs. 5 lacs, as against the demand of Rs. 17,52,005/- and penalties, within 8 weeks from the date of order and the matter was adjourned to 4.10.2006.

The contention raised by learned counsel for the petitioner is that levy of duty in the case in hand is totally uncalled for and so is the penalty and further that financial position of the petitioner is not good as the unit is running into losses. He has placed on record the balance sheet and profit and loss account as on 31.3.2005.

We have perused the balance sheet and profit and loss account and are satisfied that financial position of the petitioner, which is a proprietorship firm,

is not as bad, as is sought to be projected by the petitioner, so as to make him unable to deposit the amount of Rs. 5 lacs as a pre-condition for hearing of appeal on merits. Accordingly, we uphold the order passed by the Tribunal requiring the petitioner to deposit a sum of Rs. 5 lacs.

At this stage, learned counsel for the petitioner prayed that as the time for deposit of amount has already expired, the same may be extended.

We consider the prayer to be reasonable and accordingly direct that in case the amount of Rs. 5 lacs, as directed by the Tribunal, is deposited by the petitioner within 6 weeks from today, the appeal filed by the petitioner shall be heard and decided on merits by the Tribunal.

The writ petition is disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

(K.S.Garewal)
Judge

19.10.2006
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